

GOVERNMENT OF TELANGANA  
ABSTRACT

Tribal Welfare Department - Khammam District - Revision Petition filed by Sri K. Venkata Madhusudhana Rao, S/o Pullaiah, R/o Manuguru Town, Manuguru Mandal, Khammam District against the orders of the Additional Agent to Govt., P.O.,ITDA, Bhadrachalam, Khammam District, dated 18.11.2006 in CMA.No.88/2003 in respect of Acres 0-04 in Sy. No. 283, of Manuguru Town & Mandal, Khammam District - Rejected - Orders - Issued

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TRIBAL WELFARE (LTR) DEPARTMENT

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G.O.Ms.No. 59

Dated: 28-11-2018

Read the following:-

- 1) Revision Petition filed by Sri K.Venkata Madhusudhana Rao, S/o Pullaiah, R/o Manuguru Town, Manuguru Mandal, Khammam District Dt:27.12.2006.
- 2) Govt. Memo.No 15093/LTR.2/2006-1, dt 01.02.2007.
- 3) From the Addl.Agent to Government, Bhadrachalam.  
RP.No.15093/LTR-2/07-1(CMA No.88/2003), dt:29.09.2008.
- 4) Govt. Letter No 15093/LTR.2/2006-1, dt: 18.03.2015, 18.07.2016,17.10.2016, 24.12.2016, 17.2.2017, 30.03.2017, 10.05.2017, 22.07.2017, 09.10.2017 & 12.12.2017.

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ORDER

In the reference 1<sup>st</sup> read above, Sri K. Venkata Madhusudhana Rao, S/o Pullaiah, R/o Manuguru Town, Manuguru Mandal, Khammam District has filed Revision Petition before the Government aggrieved by the orders of the Additional Agent to Government, Bhadrachalam dated: 18.11.2006 in CMA No.88/2003 in respect of Acres 0-04 in Sy. No. 283, of Manuguru Town & Mandal, Khammam District.

2. In the reference 2<sup>nd</sup> read above, Government have rejected Stay Petition and the Project Officer & Additional Agent to Government, Khammam District was requested to furnish Para Wise Remarks and connected case records and in the reference 3<sup>rd</sup> read above the Additional Agent to Government, Bhadrachalam, Khammam District has furnished Para Wise Remarks and connected case records.

3. The Main grounds of the case are as follows:

- The orders of the Additional Agent to Government, Bhadrachalam (1<sup>st</sup> Respondent) under revision is arbitrary, not in appreciation of the facts in accordance with law, without jurisdiction, and ultra vires the provisions of L.T.R. 1/1959 as amended by Regulation 1/1970, against the principles of natural justice.
- The Agent to Government, Khammam District (3<sup>rd</sup> Respondent) not justified in taking up suo-motu revision against the order of the Special Deputy Collector(TW), Bhadrachalam (2<sup>nd</sup> Respondent) dated: 27-11-1992 in LTR Case No.255/87/MGR upon the alleged letter of the Mandal Revenue Officer, Manugur (4<sup>th</sup> Respondent) dated 07-09-1996 in Rc.No.B/215/95, without appreciating that the provision of the A.P. Scheduled Areas LTR 1/1959 and ought to have considered that the said Regulation 1/1959 neither confirms any suo-motu revision powers or appellate powers on Agent to Government, Khammam and Additional Agent to Government, Bhadrachalam herein, more particularly after expiry of about eleven years from the date of passing of the order by the Agent to Government, Khammam District.
- The Additional Agent to Government, Bhadrachalam ought to have appreciated the fact of death of the original petitioner Kondru Kannaiah as on

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date of taking suo-motu revision by the Agent to Government, Khammam, and ought to have dismissed the suo-motu revision on the ground of nullity, as it is proposed to revise in the name of dead petitioner there in and without jurisdiction.

- The Additional Agent to Government, Bhadrachalam, not justified in passing the impugned order under revision, without considering the written arguments filed by the counsel for the Revision Petition herein. Therefore, the order under revision is causing grave injustice to the petitioner herein.
- The Additional Agent to Government, Bhadrachalam ought to have seen that, in obedience of the decisions of the Hon'ble Supreme Court of India, and the Hon'ble High Court of A.P. cited in the written arguments, and as per the facts and circumstances of the case, the authorities under the provisions of Regulation 1/1959 has no jurisdiction to adjudicate and decide the validity/ genuineness of the document, consequent possession and title of the Revision Peition, who is in possession of the schedule property long prior to the commencement of the Regulation 1/1970, duly paying land revenue to the Government and ought to have appreciated that it is for the Civil Court to decide such disputes.
- The Additional Agent to Government, Bhadrachalam, failed to appreciate that the provisions of LTR 1/1959 do not authorize or empower him to substitute the legal heirs of the deceased original petitioner to its file.
- The Additional Agent to Government, Bhadrachalam, ought to have appreciated the contents of the written arguments dated 02.07.2005 before passing the impugned orders, and ought to have given reasons in the impugned orders under revision.
- The Additional Agent to Government, Bhadrachalam, ought to have seen and considered the counter averments made by the Sri Kondru Sammaiah, S/o late Venkaiah, dated 24.02.2006 admitting the fact of transfer of the schedule property in favour of the revision petitioner herein by his brother and ought to have dropped the proceedings against the order of the Special Deputy Collector (TW), dt 27-11-1992.
- The Additional Agent to Government, Bhadrachalam, totally failed to consider and apply judicial mind to the referred decisions of the Hon'ble High Court of A.P., wherein the question of Law in respect of Suo-motu revision power, suo-motu appellate power more particularly after expiry of several years and ought to have appreciated that the said decisions are firmly applicable to the case of the Revision Petitioner.
- Fixed Court fee is paid.
- That for these and other grounds of revision that may be urged at the time of arguments, the RP herein prays that, the Government of A.P., be pleased to suspend the impugned orders under revision dated 18-11-2006 in C.M.A. No. 88/2003 pending disposal of the revision, and call for the connected records from the Additional Agent to Government, Bhadrachalam, in C.M.A. No. 88/2003, and the records from the Special Deputy Collector (TW), Bhadrachalam, in LTR Case No.225/87/KGM, and set aside the impugned orders dated 18-11-2006 and 16-12-987 respectively, in respect of the schedule land for want of jurisdiction and defects as stated supra, and pass such order or orders as the Hon'ble Court deems fit and proper in the circumstances of the case.
- Thus, the Revision Petitioner has requested to set aside the orders of the Additional Agent to Government, Bhadrachalam, dt: 18-11-2006 in C.M.A. No.88/2003 and pass such other order deemed fit and proper.

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4 The remarks of the Additional Agent to Government, Bhadrachalam on the Revision Petition are as follows:

- The brief facts of the case are that originally LTR case No. 255/87/MGR is booked between Sri Kondru Kannaiah and Sammaiah as petitioners and Komma Madhusudan Rao as Respondent. The Special Deputy Collector, Tribal Welfare Palvoncha in his order dated 16-12-1987 passed ejectment orders and directed to restore the land to the tribal petitioner. After lapse of (5) Years reopened the case on the same LTR case No. 255/87/MGR between same parties and dropped the proceedings on dt 27.11.1992 in favour of Non tribal (K. Madhusudhan Rao) covered to an extent of Ac. 0.04 gts. in Sy.No.283 at Manuguru (V) and (M). Later the Agent to Government, Khammam taken up suo-motu appeal and transferred the same to the Additional Agent to Government, Bhadrachalam to decide the case. Once an order passed in LTR case on dt: 16.12.1987 after lapse of (5) years the same authority taken up the case between the same parties and dropped the proceedings finding the irregularities the suo-motto appeal was taken. There is no time prescribed to take suo-motto appeal.
- Originally LTR case No. 255/1987 dt 16.12.1987 was initiated between Sri Kondru Kannaiah and Sammaiah as petitioners and Komma Madhusudan Rao as Respondent. The Special Deputy Collector(TW), Palvoncha reopened the case on the same LTR case No. 255/87/MGR between same parties and dropped the proceedings in favour of Non-Tribal (K.Madhusudan Rao). Later the Agent to Government, Khammam District taken up suo-motto appeal and transferred the same to the 1<sup>st</sup> Respondent herein (Additional Agent to Government) to decide the case. Once an order passed in LTR case on dt 16.12.1987 after lapse of (5) years the same authority taken up the case between the same parties and dropped the proceedings finding the irregularities the suo-motto appeal was taken. There is no time prescribed to take suo-motu appeal.
- The CMA was taken up a suo-motu because the irregularities committed by lower court in passing the orders. Later during the course of enquiry on the information given by the Mandal Revenue Officer, Manuguru the Legal Representatives was added in this case and passed orders. When at the time of the passing of the 1<sup>st</sup> order i.e. dt 16.12.1987, the tribal petitioner is alive. By the time of passing of the 2<sup>nd</sup> order i.e. 27.11.1992 the Tribal Petitioner not alive. So the order passed 2<sup>nd</sup> time is void and the orders passed 1<sup>st</sup> time i.e. 16.12.1987 holds good. The main point of this case is that whether the same authority can reopen the case after lapse of (5) years when the aggrieved party has got appellate opportunity. But the Lower court committed a blatant error reopening the case and passing 2<sup>nd</sup> order which is not correct.
- The Additional Agent to Government, Bhadrachalam after considering the written arguments and decisions cited by the learned Advocate passed orders. The order of the Additional Agent to Government, Bhadrachalam 1<sup>st</sup> respondent clearly reveals everything.
- The Additional Agent to Government, Bhadrachalam (1<sup>st</sup> respondent) has got suo-motu power to take up suo-motu case and he is also empowered to substitute the legal heirs. This regulation is provided to protect the interest of the tribal's and they are uneducated and not aware the legal proceedings. Therefore, the regulation provides suo-motu powers to the authorities and by exercising the said suo-motu powers, the court will acts. As such, there is nothing wrong is substituting legal heirs of deceased tribal. After perusal of the case record and written arguments passed the order by the Additional Agent to Government, Bhadrachalam (1<sup>st</sup> respondent).

- The Sri Kondru Sammaiah, S/o late Venkaiah (5<sup>th</sup> respondent) herein never made any averments on 24.2.2006 before this court to consider the said admission. This respondent unable to understand how the Revision Petitioner stated that 5<sup>th</sup> Respondent herein made averments on 24.02.2006. The Additional Agent to Government, Bhadrachalam (1<sup>st</sup> respondent) after verifying the record and decisions cited by the learned advocate, passed order. The Additional Agent to Government, Bhadrachalam (1<sup>st</sup> respondent) in his order clearly discussed all the contents raised by the Revision Petitioner and passed orders.
- In the facts and circumstances stated above the action taken by the Additional Agent to Government, Bhadrachalam (1<sup>st</sup> Respondent) herein i.e., passed orders according to the provisions of APSALTR 1 of 59 amended by Regulation 1 of 1970. Hence, the averments made by the Revision Petitioner are untenable and liable to be rejected. It is therefore prayed the Government may be pleased to dismiss the Revision Petition filed by Komma Madhusudhan Rao.

5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Additional Agent to Government, has observed that:

- Originally in this case Special Deputy Collector (TW), Paloncha passed ejectment order dt 16.12.1987 and another Special Deputy Collector (TW), Paloncha re-enquired the same case and dropped the proceedings dt 16.12.1987 in favour of Respondent (Present appellant) after 5 years which against law.
- Respondents in the case are Tribes.
- Sale deed page 17 in lower court file is for 0-7 gts, whereas order passed is for 0-4 gts.
- Additional Agent to Government set aside the second orders of Special Deputy Collector and passed orders to restore the land to respondents (Tribes).
- The claim of the Revision Petition is that he purchased the land on 06.03.1962 through sale agreement/sada sale deed. He did not get it registered. Sada sale deed is not valid.

6. Government therefore, after careful examination of the matter hereby rejects the Revision Petition filed by Sri K. Venkata Madhusudhana Rao, S/o Pullaiah, R/o Manuguru Town, Manuguru Mandal, Khammam District before the Government aggrieved by the orders of the Additional Agent to Government, Khammam District issued in respect of Acres 0-04 in Sy.No.283, of Manuguru Town & Mandal, Khammam District and upholds the orders of the Additional Agent to Government, Bhadrachalam, dated 18.11.2006 in CMA.No.88/2003.

7. The Additional Agent to Government and Project Officer, ITDA, Bhadrachalam, Khammam District shall take necessary further action accordingly. The original case records received in the reference 3<sup>rd</sup> read above are returned herewith.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

BENHUR MAHESH DUTT EKKA  
SECRETARY TO GOVERNMENT

To

- 1) Sri K. Venkata Madhusudhana Rao, S/o Pullaiah,  
R/o Manuguru Town, Manuguru Mandal, Bhadradi Kothagudem District.
- 2) Sri Kondru Sammaiah, S/o Late Venkaiah  
Cultivation, Near Vegetable Market,  
R/o Manuguru town & Mandal, Bhadradi Kothagudem District.

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- 3) Sri Kondru Venkateswarlu, W/o Kannaiah  
Cultivation, Near Vegetable Market,  
R/o Manuguru town & Mandal, Bhadradri Kothagudem District.
- 4) Sri Kondru Prashant, S/o Sammaiah  
being minor rep. by father Kondru Sammaiah,  
R/o Manuguru town & Mandal, Bhadradri Kothagudem District.
- 5) Smt. Kondru Ramadevi, D/o Sammmaiah  
being minor represented by father Kondru Sammaiah  
R/o Manuguru town & Mandal, Bhadradri Kothagudem District.
- 6) The Project Officer, ITDA and Additional Agent to Government,  
Bhadrachalam, Khammam District(w.e.)

Copy to :

The Special Deputy Collector(TW), Bhadrachalam District.  
for information and necessary action.

The Tahsildar, Manguru Mandal, Khammam District.

Sri Nanduri Srinivasa Rao & Sri Komma Raju Srimannarayana, Advocates  
(Counsel for the petitioner)

Bhadrachalam, Bhadradri Kothagudem Dist - 507 111.

P.S to Minister (TW)/P.S. to Secretary (TW)

SF/SC

// FORWARDED:: BY ORDER //

SECTION OFFICER